

**ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]**

**Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code sections 15.104 and 15.108, the Iowa Department of Economic Development adopts amendments to Chapter 78, “Small Business Disaster Recovery Financial Assistance Program,” Iowa Administrative Code.

These amendments implement a new business loan program to provide disaster relief assistance to businesses physically damaged by the 2010 natural disasters that are in presidentially declared disaster areas eligible for individual assistance.

In compliance with Iowa Code section 17A.4(3), the Department finds that notice and public participation are impracticable because of the immediate importance of providing support to businesses damaged by the 2010 natural disasters in those areas and because of the need for rule changes to implement the assistance program for disaster recovery.

The Department also finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of the amendments should be waived and the amendments be made effective upon filing on August 20, 2010, as these amendments confer a benefit to businesses in areas eligible for individual assistance that were physically damaged by the 2010 natural disasters.

The Iowa Economic Development Board adopted these amendments on August 19, 2010.

These amendments are also published herein under Notice of Intended Action as **ARC 9066B** to allow for public comment. This emergency filing permits the Department to implement the disaster recovery program immediately.

These amendments are intended to implement Iowa Code section 15.108.

These amendments became effective on August 20, 2010.

The following amendments are adopted.

ITEM 1. Add the following new division title before rule 261—78.1(15):

DIVISION I  
2008 NATURAL DISASTER SMALL BUSINESS DISASTER RECOVERY  
FINANCIAL ASSISTANCE PROGRAM

ITEM 2. Reserve rules **261—78.8** to **261—78.10**.

ITEM 3. Add the following new division title after rule 261—78.10:

DIVISION II  
2010 IOWANS HELPING IOWANS BUSINESS ASSISTANCE PROGRAM

ITEM 4. Adopt the following new rules 261—78.11(15) to 261—78.18(15):

**261—78.11(15) Purpose.** The purpose of the Iowans helping Iowans business assistance program is to provide financial assistance to businesses that sustained physical damage due to the 2010 natural disasters. The department will make financial assistance available for working capital to help ensure businesses’ survival for those businesses that suffered physical damage due to the 2010 natural disasters.

**261—78.12(15) Definitions.** Terms shall have the following definitions for purposes of this division:

“*2010 natural disasters*” means the natural disasters in and around Iowa resulting in the Presidential declaration of a major disaster for the state of Iowa, known as FEMA-1930-DR, dated July 29, 2010, and related determinations and updated designations.

“*Administrative entity*” means (1) selected cities that administer local disaster recovery programs, and (2) councils of governments established by Iowa Code chapter 28H, including organizations comprised of one or more councils of governments so established.

“*Business*” means a corporation, a professional corporation, a limited liability company, a partnership, a sole proprietorship or a nonprofit corporation. “*Business*” does not include a residential landlord or a home-based business for purposes of this division.

“*Department*” means the Iowa department of economic development.

“*Eligible lender*” means any of the following entities that provide disaster recovery loans to businesses: the U.S. Small Business Administration; a financial institution; an economic development organization; a rural electric or telephone cooperative with an established Economic Development Administration (EDA)-based or U.S. Department of Agriculture (USDA)-based revolving loan fund program or intermediary relending program.

“*Financial institution*” means a state bank as defined in Iowa Code section 524.103, subsection 39; a state bank chartered under the laws of any other state; a national banking association; a trust company; a federally chartered savings and loan association; an out-of-state, state chartered savings bank; a financial institution chartered by the federal home loan bank board; a non-Iowa chartered savings and loan association; an association incorporated or authorized to do business under Iowa Code chapter 534; a production credit association; a credit union; or such other financial institution as defined by the department for purposes of this division.

“*Program*” means the Iowans helping Iowans business assistance program.

**261—78.13(15) Eligible business.** An eligible business is one that meets the following requirements:

**78.13(1)** The business has sustained physical damage due to the 2010 natural disasters;

**78.13(2)** The business is located in the presidentially declared disaster area eligible for individual assistance, as designated by FEMA-1930-DR; and

**78.13(3)** The business has been approved for a loan directly related to a 2010 natural disaster purpose from an eligible lender. The business shall not be required to execute a loan offered by an eligible lender for a 2010 natural disaster-related purpose to be eligible for participation in this program. The disaster loan from the eligible lender used to determine eligibility for the program under this rule shall not be conditional upon receipt of financing from the program or any other sources.

**261—78.14(15) Eligible program activities; maximum amount of assistance.**

**78.14(1)** *Program funds available for working capital.* An eligible business may apply for funding for working capital to ensure the business’s survival. The maximum amount of financial assistance available for working capital to ensure the business’s survival is an amount equal to not more than 25 percent of the eligible lender’s approved loan amount offered to the business, up to a maximum of \$50,000.

**78.14(2)** *Total program assistance capped at \$50,000.* An eligible business shall not receive more than \$50,000 through the program. Participation in the program does not limit the eligible business’s participation in other programs administered by the department, unless specifically limited by law.

**261—78.15(15) Distribution of funds; application.**

**78.15(1)** *Distribution of funds.* The department will disburse funds to eligible businesses in the order applications are received and as long as funds are available for the program, as determined solely by the department. Incomplete applications shall not be deemed as received until all required information is received by the department, except as expressly allowed by the application.

**78.15(2)** *Application process.* Applicants shall be required to apply for financial assistance under the program using the department’s online application form available at [www.iowanshelpingiowans.com](http://www.iowanshelpingiowans.com).

**261—78.16(15) Form of assistance available to eligible businesses.** The department shall provide financial assistance through this program to eligible businesses, subject to an agreement with the business and in compliance with the terms and conditions described in this rule. The department may award funds in the form of a forgivable loan to eligible businesses. The department shall forgive a loan made to an eligible business under the program if the business remains open for business for at least 12 months from the date of the award. If the business closes or otherwise ceases to exist in substantially the same

capacity in which it existed at the time the loan was awarded under this program, the business shall repay the entire loan to the department immediately.

**261—78.17(15) Grants to administrative entities.**

**78.17(1)** The department may enter into agreements with administrative entities to administer the program on behalf of the department. Under such agreements, the department will provide grants to the administrative entities to administer and disburse financial assistance consistent with this division to eligible businesses. Nothing in this rule shall require the department to enter into an agreement with an administrative entity to administer the program on its behalf.

**78.17(2)** Each local administrative entity acting on behalf of the department under this rule shall enter into a contract with an eligible business to provide assistance under this program. The contract shall include terms and conditions that meet the requirements of these rules and repayment provisions if funds are not used in compliance with the program. Each local administrative entity shall provide oversight and contract administration to ensure that the recipients of program funds are meeting contract requirements. Each local administrative entity shall collect data relating to the program and shall submit a report to the department as required. The content and form of the report shall be consistent with the program and as directed by the department.

**78.17(3)** Administrative entities acting under this rule may elect to apply singly or join with other administrative entities. To the extent administrative entities act jointly or cooperatively in their participation in the Iowans helping Iowans housing assistance program administered by the Iowa finance authority pursuant to 265—Chapter 40, Iowa Administrative Code, the department may require the administrative entities to similarly act jointly or cooperatively in their participation under this division.

**261—78.18(15) Award; acceptance.**

**78.18(1)** *Award.* The director of the department shall have the authority to award loans and grants made under this program and to execute loan documents, grant agreements and other related documents.

**78.18(2)** *Acceptance.* A business recommended for a loan under this program shall execute the necessary loan documents and return them to the department by the time described in the intent to award letter; otherwise, the department may rescind the loan award.

These rules are intended to implement Iowa Code section 15.108.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/8/10.